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## **CONGRESSIONAL TRADE LEADERS FIGHT INDIA'S UNFAIR TRADE PRACTICES**

*In Letter to ITC, Members Seek Investigation of Policies that Discriminate Against U.S. Exports*

**WASHINGTON** –Senate Finance Committee Chairman Max Baucus (D-Mont.), Ranking Member Orrin Hatch (R-Utah), House Ways and Means Committee Chairman Dave Camp (R-Mich.) and Ranking Member Sander Levin (D-Mich.) today requested the U.S. International Trade Commission (ITC) investigate India's unfair trade practices that discriminate against U.S. exports and investment.

Noting in a letter that U.S. exports to India are low given the size of its market, the congressional leaders asked the ITC to detail policies India has in place that restrict trade and violate intellectual property rights, as well as the effect they have on U.S. exports, businesses and jobs.

The full text of the letter is available below:

August 2, 2013

The Honorable Irving A. Williamson  
Chairman  
U.S. International Trade Commission  
500 E Street, S.W.  
Washington, DC 20436

Dear Chairman Williamson,

We are writing to request that the U.S. International Trade Commission (Commission) conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. §1332(g)) regarding Indian industrial policies that discriminate against U.S. imports and investment for the sake of supporting Indian domestic industries, and the effect that those barriers have on the U.S. economy and U.S. jobs.

India is an important strategic partner of the United States, yet U.S. exports of goods and services to India remain low. In 2011, U.S. goods exports to India – the world's second most populous country – were just \$22.3 billion. Similarly, recent data indicates that U.S. private commercial services exports, sales of services by majority U.S.-owned affiliates, and U.S. foreign direct investment (FDI) in India were also low.

India has risen rapidly and lifted millions out of poverty in the wake of its significant market opening reforms and its efforts to seek foreign investment in certain sectors of its economy over the past two decades. However, India maintains and continues to put in place measures that appear to contradict its stated domestic growth objectives. For example, India has a complex, non-transparent tariff and fee system and byzantine and overburdensome customs procedures, and it maintains significant tariff and non-tariff barriers to U.S. goods and service participation in sectors including retail and agriculture. More recently, India has introduced new localization-forcing measures such as local content and technology transfer requirements in the green technology and information and communications technology sectors. And India has not yet taken action to fully and effectively protect and enforce copyrights, including in the digital environment, and has applied its patent law in a discriminatory manner, particularly against innovative U.S. pharmaceutical companies, so as to advantage its domestic industries.

Beyond any particular action India has taken, the government has enunciated a broader policy objective to develop and support Indian domestic industries by forcing foreign firms to use local facilities and suppliers and to transfer their intellectual property to Indian entities. Government documents indicate that India is likely to adopt additional measures to this end, and expand these sorts of measures to additional sectors, creating significant concern and uncertainty for U.S. exporters and investors.

Finally, we are very concerned about the broader impact that India's trade policy may be having on the global trading system, both in terms of the model it is setting for other countries and the drag it is exerting on multilateral trade negotiations.

Despite the widespread evidence of these existing and anticipated barriers to U.S. exports and investment in India, the U.S. Government has not conducted a comprehensive economic analysis of the effect of Indian trade policies on the U.S. economy and U.S. jobs. To assist us in better understanding the effects of these existing and anticipated barriers to U.S. exports and investment in India, we request the Commission to provide a report covering the items described below.

Based on a review and analysis of data and information from available sources, including a survey of U.S. firms, we request the Commission to provide:

- An overview of trends and policies in India affecting trade and foreign direct investment in that country's agriculture, manufacturing and service sectors, as well as the overall business environment. The overview should take a historic view, but focus on the period since 2003. It should include examples of changes in tariff and nontariff measures, including measures related to the protection of intellectual property (IP) rights, and other actions taken by India's government to facilitate or restrict the inflow of trade and FDI.
- A description of (1) any significant restrictive trade and FDI policies currently maintained or recently adopted by India as identified by USITC research; (2) the sectors in the U.S. economy most affected by these restrictive policies; and (3) the general competitiveness of sectors in India's economy that are subject to the identified restrictions.
- Several case studies that examine the effects of particular restrictive measures on U.S. firms that export to or invest in India, or that have not done so because of the measures. To the extent

feasible, the case studies should address the impact of the restrictive measures on both large and small and medium-sized enterprises.

- To the extent feasible, a quantitative analysis of the economic effects of India's identified restrictive measures on the U.S. economy as a whole, on U.S. trade and investment, and on selected sectors of the U.S. economy.
- Based on the survey and analysis of results, and to the extent feasible, a summary of U.S. firms' perception of (1) recent changes in India's trade and investment policies in selected sectors and (2) the effects of these changes on U.S. firms' strategies towards India (e.g., reducing investment or altering product mix), and analysis of whether the effects of these policy changes differ by firms' characteristics, such as size, IP-intensiveness, or export status.

We request that the Commission deliver the report to us by November 30, 2014.

In preparing its report, we do not expect the Commission to make findings regarding the legal merits of any Indian laws or policies.

As we intend to make the report available to the public, we request that the Commission not include confidential business information in the report.

Sincerely,

Max Baucus  
Chairman, Senate Committee on Finance

Orrin Hatch  
Ranking Member, Senate Committee on Finance

Dave Camp  
Chairman, House Committee on Ways and Means

Sander Levin  
Ranking Member, House Committee on Ways and Means

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